



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	HB0469	Title:	Clarify tax classification of wireless communication property
Primary Sponsor:	McNutt, Walter	Status:	As Introduced

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$120,894	\$114,842	\$114,842	\$114,842
State Special Revenue	\$0	\$0	\$0	\$0
Revenue:				
General Fund**	(\$456,901)	(\$463,755)	(\$470,711)	(\$477,772)
State Special Revenue**	(\$28,607)	(\$29,036)	(\$29,472)	(\$29,914)
Net Impact-General Fund Balance**:	<u>(\$577,795)</u>	<u>(\$578,597)</u>	<u>(\$585,553)</u>	<u>(\$592,614)</u>

** see Fiscal Analysis assumption number 2

Description of Fiscal Impact:

Per a recent legislative audit, the Department of Revenue is required to centrally assess cellular companies and place their property in class 13. However, in calendar year 2006 and prior, cellular companies were locally assessed under class 4 and class 8. Under this bill, the Department of Revenue is required to continue locally assessing cellular companies under class 4 and class 8. This bill will not change the revenue estimates as the revenue forecasts in HJR 2 are not adjusted for the changes mandated by the legislative audit. Table 1 shows the revenue increase to HJR 2 caused by the legislative audit mandate.

FISCAL ANALYSIS

Assumptions:

Revenue Impacts of Legislation – HJR 2

1. As a result of a Legislative Audit ending in December 2006, it was determined that property owned by wireless communications providers should be taxed as class 13 – centrally assessed property. Prior to that

time, this property was assessed as class 4 and class 8 property and assessed locally. As a result, the Department of Revenue will assess property owned by these providers as class 13 for calendar year 2007. This will result in increased revenue to the state and local governments as shown in table 1.

2. Due to a timing issue, the revenue estimates contained in HJR 2 do not account for the proper amount of revenue to be collected as shown in Table 1. Passage or failure of this bill could result in several scenarios:
 - a. If the revenue estimates contained in HJR 2 were revised to reflect the amounts to be collected under current law (Table 1) and HB 469 were to pass, then this fiscal note would reflect the loss of state and local revenue in the amounts in Table 1.
 - b. If the revenue estimates contained in HJR 2 were revised to reflect the amounts to be collected under current law (Table 1) and HB 469 were to not pass, then state and local revenue collections would receive increased revenues in the amounts in Table 1.
 - c. If the revenue estimates contained in HJR 2 were not revised to reflect the amounts to be collected under current law (Table 1) and HB 469 were to not pass, then state and local governments would collect additional revenue in the amounts shown in Table 1 over and above the amount reflected in HJR 2.

Table 1 Revenue Difference if Wireless Communications Property is in Class 13 versus Class 4 and Class 8				
<u>Taxing Jurisdiction:</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
State:				
General Fund	\$456,901	\$463,755	\$470,711	\$477,772
University	\$28,607	\$29,036	\$29,472	\$29,914
Local Government and Schools:	\$2,217,438	\$2,313,896	\$2,414,551	\$2,519,583
TOTAL	<u>\$2,702,946</u>	<u>\$2,806,687</u>	<u>\$2,914,734</u>	<u>\$3,027,269</u>

3. For calendar year 2006 the total statewide market value for cellular companies was \$156,578,990. For purposes of this fiscal note it assumed that the market value of wireless communications property will grow by 1.5% per year. Estimated market value are as follows:
 - FY 2008 (calendar year 2007) is \$158,927,675 (1.015 x \$156,578,990)
 - FY 2009 (calendar year 2008) is \$161,311,590 (1.015 x 1.015 x \$156,578,990)
 - FY 2010 (calendar year 2009) is \$163,731,264 (1.015 x 1.015 x 1.015 x \$156,578,990)
 - FY 2011 (calendar year 2010) is \$166,187,233 (1.015 x 1.015 x 1.015 x 1.015 x \$156,578,990)
4. Under current law the taxable rate is 6% for class 13 property. Under the proposed law the tax rate will be 3%. The taxable rate for class 4 property is 3.01%, and the taxable rate for class 8 property is 3.00%. Since most of the property of cellular companies will be in class 8, the weighted average taxable rate will be about 3.00%. The reduction in taxable value due to this bill will be 3% of market value (6% - 3%). The reduction in taxable values will be as follows:
 - FY 2008: \$4,767,830 (0.03 x \$158,927,675)
 - FY 2009: \$4,839,348 (0.03 x \$161,311,590)
 - FY 2010: \$4,911,938 (0.03 x \$163,731,264)
 - FY 2011: \$4,985,617 (0.03 x \$166,187,233)

5. In FY 2007 (calendar year 2006) general fund mill levy amount was 95.83 (the statewide 95 education mills plus the 1.5 mills for colleges of technology). The general fund revenue decreases will be as follows:
 - FY 2008: \$456,901 ($95.83 / 1,000 \times \$4,767,830$)
 - FY 2009: \$463,755 ($95.83 / 1,000 \times \$4,839,348$)
 - FY 2010: \$470,711 ($95.83 / 1,000 \times \$4,911,938$)
 - FY 2011: \$477,772 ($95.83 / 1,000 \times \$4,985,617$)
6. The university 6 mill levy revenue decrease will be as follows:
 - FY 2008: \$28,607 ($6.00 / 1,000 \times \$4,767,830$)
 - FY 2009: \$29,036 ($6.00 / 1,000 \times \$4,839,348$).
 - FY 2010: \$29,472 ($6.00 / 1,000 \times \$4,911,938$).
 - FY 2011: \$29,914 ($6.00 / 1,000 \times \$4,985,617$).

Administrative Expenses

7. This bill exempts from central assessment certain cellular telephone service providers. The department's attorneys with experience in this area believe that if this bill passes, the potential exists for providers to "push the boundaries" of the law to place themselves in the lower taxed classification. In the event this occurs, litigation will most likely ensue, which will require at least 1.00 FTE, made up of some combination of attorney and paralegal. Normally, central assessment litigation is document intensive and has in the past few years required significant outside expert witness involvement. Requirements necessary to successfully litigate these types of cases involve travel costs, significant copying costs of documents, and court reporter fees.

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<u>Fiscal Impact:</u>				
FTE	1.00	1.00	1.00	1.00
<u>Expenditures:</u>				
Personal Services	\$83,696	\$83,696	\$83,696	\$83,696
Operating Expenses	\$30,498	\$31,146	\$31,146	\$31,146
Equipment	\$6,700	\$0	\$0	\$0
TOTAL Expenditures	\$120,894	\$114,842	\$114,842	\$114,842
<u>Funding of Expenditures:</u>				
General Fund (01)	\$120,894	\$114,842	\$114,842	\$114,842
State Special Revenue (02)	\$0	\$0	\$0	\$0
TOTAL Funding of Exp.	\$120,894	\$114,842	\$114,842	\$114,842
<u>Revenues:</u>				
General Fund** (01)	(\$456,901)	(\$463,755)	(\$470,711)	(\$477,772)
State Special Revenue** (02)	(\$28,607)	(\$29,036)	(\$29,472)	(\$29,914)
TOTAL Revenues**	(\$485,508)	(\$492,791)	(\$500,183)	(\$507,686)
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund** (01)	(\$577,795)	(\$578,597)	(\$585,553)	(\$592,614)
State Special Revenue** (02)	(\$28,607)	(\$29,036)	(\$29,472)	(\$29,914)

Technical Notes:

- Many telecommunications companies that are currently centrally assessed in class 13 also have cellular telecommunications properties that are part of their integrated business operations. This bill does not address this situation. In addition there is a continuing trend toward consolidation in the telecommunications industry as a whole. With mergers and acquisitions, there are becoming fewer companies. Many companies' long distance services, local exchange services, and wireless services are being integrated into a seamless telecommunications service.

*Sponsor's Initials*_____
*Date*_____
*Budget Director's Initials*_____
Date